

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

MARIJANE EUBANKS WISE,

Plaintiff,

– against –

ATLANTIC RECOVERY SOLUTIONS, LLC,

Defendant.

**COMPLAINT**

Case No.

NOW COMES Plaintiff, Marijane Eubanks Wise ("Plaintiff"), by and through her attorneys, and for her Complaint against Defendant, Atlantic Recovery Solutions, LLC ("Defendant"), alleges as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

Parties

2. Plaintiff is a natural person residing in North Augusta, South Carolina and is otherwise *sui juris*.

3. Plaintiff is allegedly obligated to pay a debt and is a consumer as defined by 15 U.S.C. § 1692a(3).

4. Defendant is a New York limited liability corporation conducting business in the state of New York, and has its principal place of business in Amherst, New York in the County of Erie.

5. Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6) and sought to collect a consumer debt from Plaintiff.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

7. Defendant is headquartered and conducts business in the State of New York; therefore, personal jurisdiction is established.

8. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

9. Venue is proper in the United States District Court Western District of New York pursuant to 28 U.S.C § 1391(b) because Defendant resides within this District.

Factual Allegations

10. On or around October 8, 2019, Defendant placed a collection call to Plaintiff seeking and demanding payment for an alleged consumer debt.

11. The alleged debt arises from transactions which were for personal, family, and household purposes.

12. In connection with its attempts to collect the alleged debt, Defendant placed telephone calls (“collection calls”) to Plaintiff at her cellular telephone number (803) XXX-2126.

13. On or about October 8, 2019, Defendant left a message on Plaintiff’s voicemail.

14. In the aforementioned initial voicemail message Defendant stated:

This message is solely intended for Marijane Wise. We have been attempting to reach you in regards to a legally required notice placed in our office for you. Please contact us back at your earliest convenience. 855-219-2711.

15. Telephone number (855) 319-2711 is assigned to Defendant.

16. In the voicemail message, Defendant failed to identify itself, that it was Atlantic Recovery Solutions, or that it was a debt collector.

17. In the voicemail message, Defendant failed to disclose that the purpose of its call was to collect a debt.

18. Defendant is engaging in conduct the natural consequence of which is to harass, oppress, and abuse Plaintiff in connection with attempting to collect on a debt by failing to meaningfully disclose its identity in phone calls.

19. Defendant is also using false, deceptive and misleading means in connection with attempting to collect on a debt by not identifying the purpose of its phone calls or that they are an attempt to collect on a debt.

#### FIRST CAUSE OF ACTION

##### Defendant Violated the Fair Debt Collection Practices Act

20. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-19.

21. Defendant's violations of the FDCPA include, but are not limited to, the following:

- a. §1692d of the FDCPA by engaging in conduct of which the natural result is to harass, oppress, and/or abuse Plaintiff;
- b. §1692d(6) of the FDCPA by failing to meaningfully disclose its identity in the phone call;
- c. §1692e of the FDCPA by using deceptive means in connection with the collection of the alleged debt;

- d. §1692e(10) of the FDCPA by using deceptive means in connection with its attempts to collect a debt; and
- e. §1692e(11) of the FDCPA by failing to disclose to Plaintiff that call was from a debt collector.

**WHEREFORE**, Plaintiff prays that judgment be entered against Defendant for the following:

- 1) Actual damages and compensatory damages according to proof at time of trial;
- 2) Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k;
- 3) Reasonable attorneys' fees, costs pursuant to 15 U.S.C. § 1692k; and
- 4) Awarding such other and further relief as may be just, proper and equitable.

Jury Trial Demand

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted,

Dated: April 14, 2020

/s/ Adam T. Hill

Adam T. Hill

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